

Schaben, Darlene

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**From:** Meyer, Steve <smeyer@springfieldmo.gov>  
**Sent:** Wednesday, September 18, 2013 11:32 AM  
**To:** DNRcontact, smeyer@springfieldmo.gov; Hoke, John  
**Cc:** Pauley, Sara; Madras, John; Tippet Mosby, Leanne; Millington, Jan; Errin Kemper  
**Subject:** RE: Comments on WQS  
**Attachments:** John Hoke Sept 18%2c 2013.pdf; Springfield100KStreamsMap.pdf; Stream Classification Project.pdf

Sorry John – I didn't provide the attachments – they are now attached. Steve

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**From:** Meyer, Steve  
**Sent:** Wednesday, September 18, 2013 11:29 AM  
**To:** 'Hoke, John'  
**Cc:** 'sara.pauley@dnr.mo.gov'; Madras, John; ' ([Leanne.Tippetmosby@dnr.mo.gov](mailto:Leanne.Tippetmosby@dnr.mo.gov))'; Millington, Jan; Kemper, Errin  
**Subject:** Comments on WQS

John

Attached are Springfield's comments on the proposed Water Quality Standards. Please contact me if you have any questions.

Stephen A. Meyer, P.E.  
Director of Environmental Services  
Springfield Missouri 65802  
[smeyer@springfieldmo.gov](mailto:smeyer@springfieldmo.gov)  
Phone 417-864-2047



September 18, 2013

Mr. John Hoke ([john.hoke@dnr.mo.gov](mailto:john.hoke@dnr.mo.gov))  
Water Protection Program  
Missouri Department of Natural Resources  
P.O. Box 176  
Jefferson City, MO 65102

**RE: Comments on Proposed Amendments to 10 CSR 20-7.0131 – Water Quality Standards Rule (WQS)**

Dear Mr. Hoke:

On behalf of the City of Springfield, I would like to make some brief comments on the latest version of the proposed amendment to 10 CSR 20-7.031 (Water Quality Standards):

- a. The City of Springfield supports the proposed Water Quality Standards rulemaking and urges the Clean Water Commission to adopt the proposed rule.
  
- b. The 1:100K NHD dataset, enhanced to 1:24K, has regrettably captured certain stream segments that are unrealistically presumed to have beneficial uses of fishable/swimmable. These contested stream segments are manmade stormwater conveyance systems and are exempt from the 1:100K dataset; a map and stream listing are attached to this letter. The City of Springfield is requesting that these contested stream segments be removed from the 1:100K dataset or set aside for further consideration in the next triennial review period. The City has presumptive evidence that the streams are either engineered or exhibit no permanent flow and no permanent pools. This simple action could save the City of Springfield (and other municipalities) hundreds of thousands of dollars that would be unnecessarily spent on Use Attainability Analysis (UAA). These dollars could be better spent on actually improving water quality in the southwest Missouri region.

- c. A UAA protocol should be created to accompany the Water Quality Standards at the November 6, 2013 Clean Water Commission (CWC) meeting. This is clearly a monumental task for MDNR to develop a UAA protocol that is crafted with substantial stakeholder input. If this task can't be completed by the November 6<sup>th</sup> CWC meeting, then at a minimum, MDNR should adopt the six (6) criteria outlined in 40 CFR 131.10(g) for removing or modifying the presumed designated beneficial uses. This simple action would allow the WQS to be considered and approved by the CWC on November 6, 2013.
- d. The Department has greatly improved Missouri's aquatic life use framework by providing subcategories of warm water habitat uses at various waterbody scales within the landscape. The Department has proposed five (5) warm water habitat uses in flowing waters, ranging from Headwater to Great River. We strongly support this aspect of the proposed rule and suggest that these ranges be included for cool and cold water habitats as well.
- e. The Department also proposed aquatic habitat tiers above and below the general aquatic habitat uses, (i.e., exceptional and modified aquatic habitats). The proposed definition of Exceptional Aquatic Habitat is unclear and could be construed to apply to numerous waters that are more appropriately protected by the general aquatic habitat uses. For example, the Missouri and Mississippi Rivers could fit the current definition, however, we believe that this designation is not the Department's intent. Most "exceptional" waters are designated as Outstanding State and National Resource Waters and afforded extensive protections under Missouri's antidegradation policy and implementation procedures. We recognize and support that both Exceptional and Modified Aquatic Habitat uses require use attainability analyses prior to designation.

However, we request that the Department to provide additional detail in the Exceptional Aquatic Habitat use definition or remove it from this rulemaking.

- f. We request that the final rule include an Ephemeral Aquatic Habitat use. This use category could be applied to all waters of the state that are not assigned general, Exceptional, or Modified Aquatic Habitat uses. While the Department included a new classification (Class E) for ephemeral waters, its applicability is uncertain. With respect to Class E or ephemeral water definition, we request that the Department eliminate the reference to a 96-hour period of flow or pooling in response to precipitation events. We assume that this period was selected based upon the duration expression for some chronic water quality criteria. However, this duration likely has no relationship to whether a waterbody would support the diverse aquatic community that the criteria were meant to protect. In summary, we recommend adding the following aquatic life use within the framework to cover watercourses that do not maintain perennial flow or permanent pools.
  - a. Ephemeral Aquatic Habitat - Waters that do not have permanent surface flow or permanent pools.
- b. We also recommend that the Department include reference to Ephemeral Aquatic Habitat use in sections (4) and (4)(I) so that these waters are clearly protected by general and acute numeric criteria. In addition, we request that a clear exception for applicability of chronic numeric criteria to these waters be included in section (5)(A) as provided below.
  - a. The maximum chronic toxicity criteria in Tables A and B shall apply to waters designated for the indicated uses given in **the Use Designation Dataset and Tables G and H**, except for waters designated for Ephemeral Aquatic Habitat.
- c. The Department included prescriptive proposed regulations for implementation of water quality standards variances. Current federal regulations (40 CFR 131.13) provide states with the discretion to use variances from water quality standards with little detail

with regards to variance requirements. To address this lack of specificity, USEPA proposed new variance regulations earlier this month to begin the federal rulemaking process. While these proposed regulations provide USEPA's current thinking with respect to variances, the final rule may take years and its specific requirements should be dealt with in a future rulemaking. Regardless, MDNR's proposed rule largely reflect the USEPA proposal including use of factors provided 40 CFR 131.10(g) as basis for variance submittals. UAA factors are appropriate for modifications to designated uses; however, these factors do not always apply to certain variance circumstances (e.g., variances from water quality criteria without beneficial use modifications). Therefore, we recommend that the Department include additional flexibility than to strictly hold to the 40 CFR 131.10(g) factors. In addition, we recommend that the Department include reference to Missouri's variance statutes, in particular to public participation process. Lastly, we recommend that the Department strike the reference to adding variances to the state water quality standards as this infers that a state rulemaking will be needed, which would greatly diminish the utility of variances. We offer the following rule revisions to reflect these requests.

(12) Variances.

- a. The department may grant, to an applicant for a National Pollutant Discharge Elimination System (NPDES) or Missouri state operating permit, a temporary variance to a water quality standard.
  - i. A variance applies only to the permittee identified in such variance and only to the water quality standard specified in the variance. A variance does not modify an underlying water quality standard.
  - ii. A variance shall not be granted if water quality standards will be attained by implementing technology-based effluent limits required under 10 CSR 20-7.015 of this rule and by implementing cost-effective and reasonable best management practices for non-point source control.
  - iii. A variance shall not be granted for actions that will impact water quality and general criteria conditions protected by 10 CSR 20-7.031(4).
  - iv. A variance shall not be granted that would likely jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of such species' critical habitat.

- v. A variance may be granted if the applicant demonstrates that achieving the water quality standard is not feasible as supported by an analysis based on the factors provided in 40 CFR 131.10(g) and other considerations, such as technology limitations.
- vi. In granting a variance, conditions and time limitations shall be set by the department with the intent that progress be made toward attaining water quality standards.
- vii. Each variance shall be granted only after public notification and opportunity for public comment in accordance with RSMo 644.061. Once any variance to water quality standards is adopted, the department shall submit the variance to the U.S. Environmental Protection Agency for approval with an Attorney General certification that the Commission adopted the variance in accordance with State law.

Thank you for your consideration of our comments and please contact me if you have any questions or concerns.

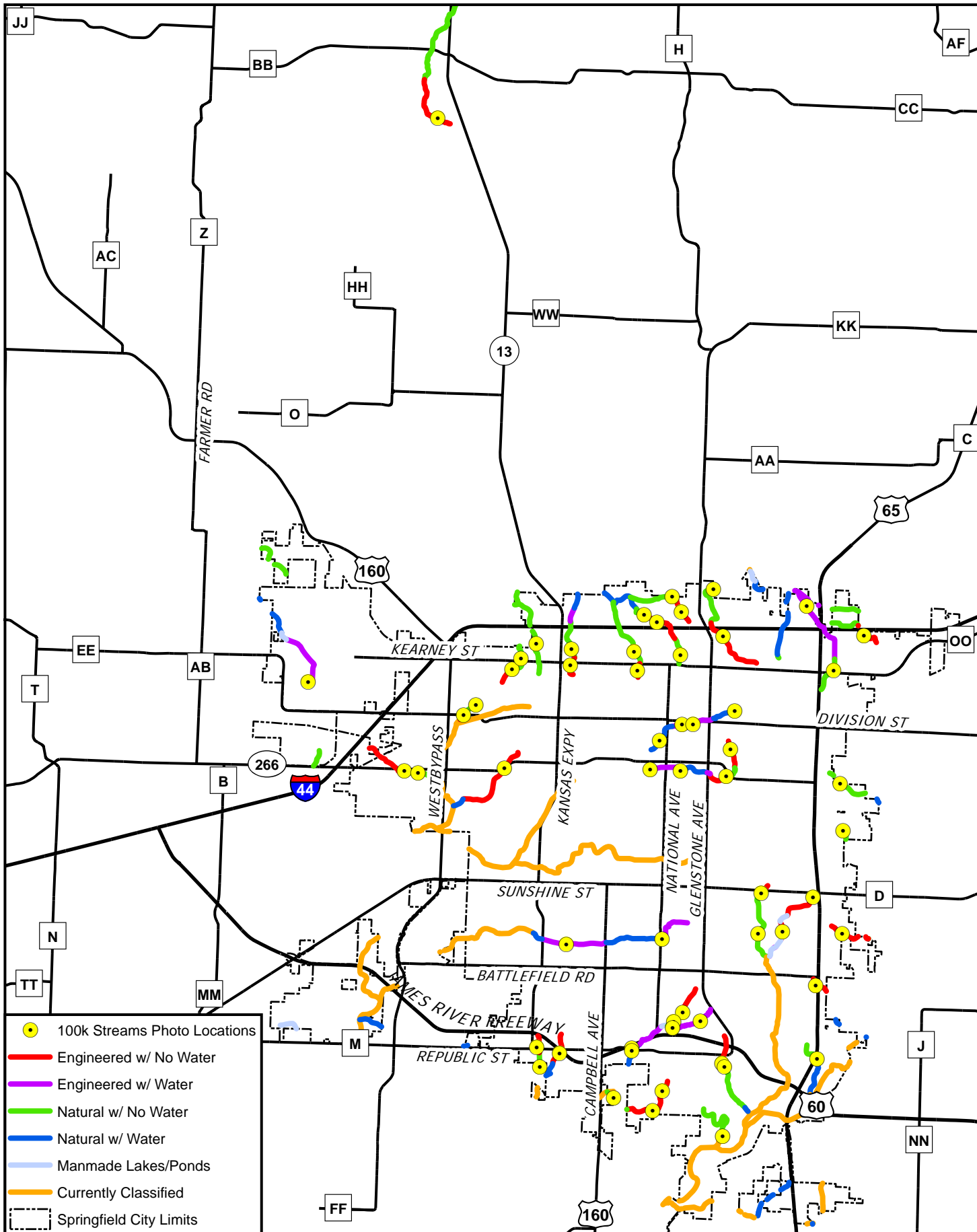
Sincerely,

Stephen A. Meyer, P.E.  
Director of Environmental Services  
Springfield Missouri 65802  
[smeyer@springfieldmo.gov](mailto:smeyer@springfieldmo.gov)  
Phone 417-864-2047



Attachments: Springfield's 100K Streams Map; Stream Listing

CC Sara Parker Pauley, MDNR Director, [Sara.Pauley@dnr.mo.gov](mailto:Sara.Pauley@dnr.mo.gov)  
Leanne Tippet Mosby, MDNR Environmental Quality Dir. , [TippetMosby@dnr.mo.gov](mailto:TippetMosby@dnr.mo.gov)  
John Madras, MDNR Water Protection Program Director, [john.madras@dnr.mo.gov](mailto:john.madras@dnr.mo.gov)  
Jan Millington, Assist. City Attorney, City of Springfield, [jmillington@springfieldmo.gov](mailto:jmillington@springfieldmo.gov)  
Errin Kemper, Assistant Director, City of Springfield, [ekemper@springfieldmo.gov](mailto:ekemper@springfieldmo.gov)



# 1:100k NHD Stream Classification



DISCLAIMER: All information included on this map or digital file is provided "as-is" for general information purposes only. The City of Springfield, and all other contributing data suppliers, make no warranties, expressed or implied, concerning the accuracy, completeness, reliability, or suitability of the data for any particular use. Furthermore, the City of Springfield, and all other contributing data suppliers, assume no liability whatsoever associated with the use or misuse of the data.

0 0.475 0.95 1.9 2.85 3.8 Miles  
SCALE: 1:150,000

STREAM NAME	ENGINEERED ADDRESS	NATURAL W/ NO WATER ADDRESS	SEMI-NATURAL W/ WATER ADDRESS
60/65 Trib		<a href="#">Republic &amp; Brunswick</a>	
Battlefield and Hwy 65 Drainage	<a href="#">3370 E Battlefield Rd</a>		
Blackman Branch of Pearson Creek	<a href="#">2300 Blk S Blackman Rd</a>		
Dickerson Branch	<a href="#">1324 W Kearney St</a>	<a href="#">1300 W Talmage St</a>	
Doling Branch	<a href="#">2335 N Pierce Ave</a>	<a href="#">2537 N Benton Ave</a>	
East Branch of Galloway Creek	<a href="#">1844 S Ingram Mill Rd (1)</a>		
	<a href="#">2411 S Edgewater Dr (2)</a>		
East Fork Spring Branch	<a href="#">2100 W Melville Rd - North Side</a>	<a href="#">2100 W Melville Rd - South Side</a>	
East Fork Workman Branch	<a href="#">1430 W Lark</a>		
Grandview Branch	<a href="#">1944 E Kerr St</a>	<a href="#">1730 E Valley Water Mill Rd</a>	
Jones Branch		<a href="#">889 S Mission Cir</a>	
Landfill Drainage	<a href="#">Landfill N Hwy 13</a>		
Mustard Branch	<a href="#">4343 E Mustard Way</a>		
National-Weaver Drainage	<a href="#">1200 E Lakewood St</a>	<a href="#">315 E Weaver Rd</a>	
	<a href="#">5021 S National Ave(2)</a>		
North Branch of Jordan Creek	<a href="#">2144 E Blaine (1)</a>		
	<a href="#">1536 E Division (2)</a>		
	<a href="#">1410 N Fremont (3)</a>		
			<a href="#">1100 N Hampton</a>
North Branch Wilsons Creek	<a href="#">3200 W Division St</a>	<a href="#">1641 N Golden Ave</a>	
North Fork of Mustard Branch			
North Fork of Nichols Branch	<a href="#">4124 W Chestnut Expy</a>	<a href="#">300 Blk N Eldon</a>	
North Fork of Ward Branch	<a href="#">1451 E Primrose</a>	<a href="#">Bradford Pkwy &amp; Fremont</a>	
Pea Ridge Creek	<a href="#">1300 Blk E McClernon St</a>	<a href="#">3363 N National Ave</a>	
Pearson Creek Northwest Trib		<a href="#">3972 E Woodhue Ln</a>	
Rainer Branch (airport)	<a href="#">N Airport Blvd</a>		
Ravenwood Branch		<a href="#">Lake Springfield Park Rd</a>	
South Branch of Jordan Creek	<a href="#">2141 E Pythian (1)</a>		
	<a href="#">2021 E Trafficway (2)</a>		
	<a href="#">510 N Sherman Pkwy (3)</a>		
			<a href="#">514 N Fremont</a>
South Creek	<a href="#">National &amp; Sunset (1)</a>		
	<a href="#">Fort &amp; Sunset (2)</a>		
South Fork Pea Ridge Creek	<a href="#">931 E Norton Rd</a>	<a href="#">3129 N Summit Ave</a>	
		<a href="#">2535 N Fremont (2)</a>	
Thompson Branch	<a href="#">2103 E Swallow</a>	<a href="#">2109 E Cardinal</a>	
Valley Water Mill Trib	<a href="#">3100 Blk E Greens Dr</a>	<a href="#">3605 E Kearney St</a>	
Ward Branch	<a href="#">1700 E Bradford Pkwy (1)</a>		
	<a href="#">3901 S Fremont (2)</a>		
			<a href="#">800 E Republic Rd (North of Republic Rd)</a>
			<a href="#">800 E Republic Rd (Twin Oaks South of Republic Rd)</a>
West Branch of Galloway Creek	<a href="#">2620 E Sunshine</a>	<a href="#">2547 E Southern Hills Blvd</a>	
West Fork Spring Branch	<a href="#">2249 N Clifton Ave</a>	<a href="#">2400 W Kearney</a>	
West Fork Workman Branch	<a href="#">1655 W Reublic Rd</a>	<a href="#">1669 W Camino Ln</a>	
Westport Branch	<a href="#">2715 W Chestnut Expy</a>		